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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,543	06/26/2001	Dale F. McIntyre	83014F-P	1842

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EXAMINER

VILLECCO, JOHN M

ART UNIT PAPER NUMBER

2612

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/891,543	<b>Applicant(s)</b> MCINTYRE ET AL.	
	<b>Examiner</b> John M. Villecco	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11 and 20-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,11 and 21-23 is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☒ Claim(s) 5-7,10 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Regarding claims 1 and 22, applicant has added objected to subject matter from claim 10 to the claim. Thus making the claims allowable.
2. As for claims 5 and 20, applicant states that they have added objected to subject matter from claims 6 and 7 into the claims. However, upon a review of the claims, applicant has not added the objected to subject matter. More specifically, applicant's last limitation of "automatically transmitting image over a communication network to a specified individual" is significantly different from the last limitation of original claim 7. This amendment changes the scope of the claims. Please see the new ground of rejection present on the following pages.
3. With regard to claims 21 and 23, applicant has added objected to subject matter from claim 11, thereby making the claims allowable.

### ***Claim Objections***

4. Claims 6, 7, and 10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Additionally, claim 10 continues to have the 112, 2<sup>nd</sup> paragraph rejection from the previous office action.

Art Unit: 2612

5. Regarding claims 6 and 7, applicant contends that they have placed claims 6 and 7 into independent claims 5 and 20. Therefore, claims 6 and 7 should be canceled because they fail to further limit the parent claim.

6. Claims 5 and 20 are objected to because of the following informalities:

- In line 9 of claim 5, applicant recites the phrase “copy of first resolution digital image”. This wording is unclear. A more appropriate wording would be – copy of said first resolution digital images –.
- In line 11 of claim 5, applicant recites the phrase “using content identifier”. This wording is unclear. A more appropriate wording would be – using a content identifier –.
- In lines 14-16 of claim 20, applicant recites the phrase “automatically transmitting over said communication network said first resolution image is identified by said content identifier”. This wording is extremely unclear. For examination purposes it will be assumed that applicant means that after an image is identified by the content identifier it is transferred to a specified individual.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2612

8. Claims 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. In line 13, of claim 5, applicant recites the limitation of "automatically transmitting image over a communication network". It is unclear from the wording which image is being discussed. There are first resolution digital images and copies of the digital images being discussed in the claim.

10. Claims 6-9 are rejected based on their dependency to claim 5.

11. Claim 10 recites the limitation "to the user computer" in line 3. There is insufficient antecedent basis for this limitation in the claim. In the parent claim, claim 1, applicant recites the limitation of a computer of a recipient. It is unclear whether the limitation in claim 10 is referring to this computer or to a different user computer.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 5, 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Christophersen et al. (U.S. Publ. No. 2003/0110182) and further in view of Mattes (U.S. Patent No. 6,038,295).**

Art Unit: 2612

14. Regarding claim 5, Safai discloses a camera which is capable of capturing an image and storing the images at a service provider for later viewing. More specifically, Safai discloses retrieving images from a specified user account (col. 16, line 65 – col. 17, line 16). The images are sent to the storage device (614) located at the service provider (600) after having been captured by the digital camera (100). The camera can transmit images wirelessly (col. 6, lines 14-18). After the images are sent to the service provider they can be retrieved by the user at the camera or automatically sent to a specified computer based on transmitted address information. Inherently, a copy of the image would be stored in the storage device in order to a camera to be able to retrieve the image.

Safai, however, fails to specifically disclose the ability to access the images from a computer. Although Safai does disclose other devices (616) connected to the network, he does not specifically disclose the ability to access stored images using the devices (616).

Christophersen, on the other hand, discloses that it is well known in the art to access images stored remotely using a computer. More specifically, Christophersen discloses a method in which a roll of film is processed (scanned) into digital images and distributed over a communications network. Christophersen discloses using a scanner (32) to process a roll of film (12) to convert the images on the roll of film into digital images. The images scanned by the scanner are sent to a gateway server (38) where they are logically grouped according to customer identifier information provided on the film (12). See paragraph 0038. The gateway server (38) is interpreted to be the service provider. The gateway server is capable of receiving requests from external users for obtaining and viewing the images stored in the gateway server. The gateway server stores several different copies of the images. See paragraph 0015 and 0041. By

Art Unit: 2612

allowing a user to access the service provider using a computer, the user is given much more flexibility when trying to access and manipulate images. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow a user to access the images stored remotely, as in Safai, using a remote computer so that the user does not have to access the images using only the camera, thereby offering the user much more flexibility.

Additionally, neither Safai nor Christophersen specifically discloses that the service provider uses content identifiers associated with the user to automatically recognize content within the digital images. Mattes, on the other hand, discloses that it is well known in the art to use content identifiers associated with the user to automatically recognize content within the digital image. More specifically, Mattes discloses a system in which images are captured at a telephone unit (TE) and tagged with classification information (OM) provided by the user. See column 6, line 42 to column 7, line 5. The examiner is interpreting the data entered with the keypad (TA) or telephone unit (TE) as being the content identifiers associated with the user. Since the data is entered by the user, it is associated with the user. This feature allows for automatic categorization of the image files at a central server. It is well known that it is beneficial to categorize images so that they are organized and easy to find. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the content identifiers provided by the user to automatically recognize content in the image and then categorize the image so that it is organized and easy to find at a remote location.

15. As for *claim 6*, both Safai and Christophersen disclose that the service provider stores a copy of the images for future access by the user or third parties. Safai would inherently store a copy of the image so that the user can access the images from the remote server. Additionally,

Art Unit: 2612

Christophersen discloses storing several different versions of an image for the user to view (paragraph 0015).

16. With regard to *claim 8*, Christophersen discloses transferring the images at the highest resolution possible (FR) and then storing several copies of the image at lower resolutions (paragraph 0039).

17. Regarding *claim 9*, Safai discloses that the electronic capture device is an electronic camera (col. 5, lines 8-14).

***Allowable Subject Matter***

18. **Claims 1-3, 11, and 21-23 allowed.**

19. The following is an examiner's statement of reasons for allowance:

Regarding *claim 1*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest storing the high resolution images for an ordering period after which the first resolution images are transferred to a computer of the recipient and the high resolution images are converted to low resolution image and added to the user's low resolution images at the service provider.

As for *claims 21 and 23*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest that the service provider can look for images to which an icon provided by the user has been applied and automatically forward the images to the user.

With regard to *claim 22*, the primary reason for allowance is that the prior art fails to teach or reasonably suggest

Art Unit: 2612

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

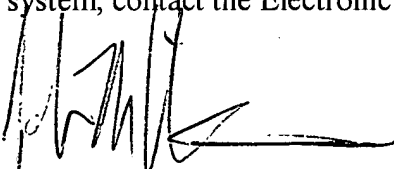
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Villecco whose telephone number is (571) 272-7318. The examiner can normally be reached on Monday-Thursday.

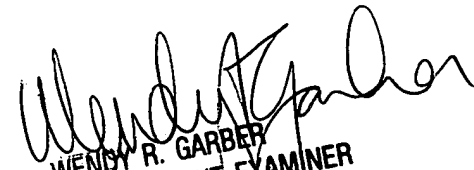
Art Unit: 2612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (571) 272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John M. Villecco  
April 11, 2005



WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
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